

Report on The Outcomes, Performance Measures and Quality Assessment Summit

Harvard Law School
Cambridge, MA

June 21, 2003

Sponsored by
Legal Services Corporation, Hale and Dorr Legal Services Center,
and Bellows-Sacks Access to Civil Legal Services Project
at Harvard Law School



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Legal Services Corporation
Report on
The Outcomes, Performance Measures
and Quality Assessment Summit
June 21, 2003
Harvard Law School, Cambridge, MA

On June 21, 2003, the Legal Services Corporation (LSC) together with the Hale and Dorr Legal Services Center and the Bellows-Sacks Access to Civil Legal Services Project at Harvard Law School convened a *Summit on Performance Measures: Assessing Quality and Measuring Results*. Thirty-two people attended the summit, among them, program executive directors and staff, national legal services leaders, funders, representatives of the courts, and several leaders of legal services in the United Kingdom. A list of those in attendance is included in Appendix I. The Summit was held in response to the LSC Board's directive to improve quality and to measure the impact of the work done by legal service programs.

The Summit included the presentations of several papers followed by a discussion facilitated by LSC Board Member Justice John T. Broderick of New Hampshire. A copy of the agenda is included in Appendix II.

A. Presentations

Below are very brief descriptions of the Summit presentations. Both the presentations and the papers contained much more information than that described here. To read the papers in their entirety, visit the LSC Resource Library website at http://www.lri.lsc.gov/sitepages/management/management_perfmeasures.htm

- *Performance and Outcomes Measurement Project: Preliminary Report*
By Colleen M. Cotter

LSC consultant Colleen Cotter presented her preliminary report on the current state of outcomes measurement in legal services and in other disciplines, the value of measuring outcomes for programs and funders, and potential steps that LSC could take with regard to outcomes measurement.

- *Quality or Access? Specialist and Tolerance Work Under Civil Contracts*
By Richard Moorhead and Richard Harding with Avrom Sherr
- *Methods for Researching and Evaluation the Public Defender Service*
By Lee Bridges, Ed Cap, Richard Moorhead and Avrom Sherr

Lee Bridges, Richard Moorhead, Alan Paterson and Avrom Sherr presented information on outcomes and other measures used in the legal services and criminal defense systems in Great Britain. They described a system that involves the use of peer review, outcome measurement, and certification that enables funders to review the inputs, structure, process, and outcomes of various legal service providers. In Great Britain there is funding for research about legal services and the results of that research are used to try to ensure quality in the process and positive outcomes.

- *Quality Assurance at the Provider Level: Integrating Law Office Approaches with Funder Needs*
By Jeanne Charn

Jeanne Charn, director of the Hale and Dorr Legal Services Center and the Bellows-Sacks Access to Civil Legal Services Project at Harvard Law School presented her paper on quality assurance and measuring outcomes. She discussed the clinic's experience with using outcome measurement to set standards and goals for their staff and students. The outcome measurement system is used in conjunction with comprehensive information about caseloads and file reviews. Ms. Charn explained that if other programs used similar outcome measurement systems the clinic would be able to use that information to better understand how the clinic is doing and to ensure that their goals are reasonable.

- *Accountability to LSC: Outcome Measures, Evaluations and Unintended Consequences*
By Alan Houseman

Alan Houseman, executive director of the Center for Law and Social Policy, presented his paper that focused on the potential unintended consequences of LSC's possible involvement with measuring outcomes. The potential unintended consequences Mr. Houseman discussed included: the possibility that when required to use a system developed by LSC programs would no longer develop their own outcome measurement systems that they use to improve services to clients; the complexity and difficulty of developing a system that is verifiable; and the possible adverse consequences in Congress if the outcomes achieved by programs are presented in a negative sound bite. Because the work done by programs is complex, it is difficult to translate them into brief reports. Mr. Houseman suggested that one way to minimize these potential negative consequences would be for LSC to encourage or even require programs to measure outcomes and for LSC to develop tools and templates to help programs do so.

- *Outcome Reporting in Legal Services: Caution Signs on the Road Ahead*
By Melville D. Miller

Melville D. Miller, executive director of Legal Services of New Jersey, presented his paper that included a discussion of some difficulties of developing a national outcome system with no clear vision of the outcomes that legal services should be trying to achieve. He described the tension between the philosophy of increasing access and other

philosophies that focus on more substantive goals for legal services. He discussed the value of taking steps toward developing some outcome measurement systems and taking the time to evaluate those systems, rather than developing one national system immediately. Mr. Miller presented his belief that the legal services community must move toward measuring outcomes, and that LSC, the National Legal Aid and Defender Association, and the American Bar Association should play a role as a “critical clearinghouse” where they are more than a repository of information but help to move the discussion forward and provide support and criticism to those involved in implementation.

- *Why We Measure Outcomes*
By Mary Asbury

Mary Asbury, executive director of Cincinnati Legal Aid (CLA) presented her paper that focused on her program’s development and use of various ways to measure the outcome of their work. The outcomes measured by CLA are based on local needs and resource allocation decisions. CLA attempts to measure whether the goals they set have been achieved. By measuring outcomes they are able to focus on the goals of their clients, determine which strategies they are using work, and modify their work as necessary to ensure they achieve their goals. Ms. Asbury expressed her belief that, as a local tool, measuring outcomes is a valuable endeavor, but she does not believe that the system can translate into a valuable national system that produces comparable data from diverse locations.

B. Discussion

Following the presentations, the group engaged in a conversation on outcome measures facilitated by Justice Broderick. The discussion followed several themes. The group attending the Summit was diverse and had a number of different perspectives to offer. There was no consensus around these themes, although there appeared to be some agreement about a number of them. Inclusion of the comments in this report simply indicates that at least one person made that comment. Many comments were made several times by different people that is sometimes but not always indicated in this report. The assertions made and views expressed are stated here as fact, without qualification. None are necessarily the view of all of the persons in attendance, the Legal Services Corporation, nor the consultant. They are presented here as statements made during the Summit. Finally, it was not possible to capture all of the comments made without simply releasing a transcript of the Summit, which did not seem appropriate. Inclusion or exclusion of any particular comment is not meant as a judgment of any of the thoughts expressed, but is merely an attempt to capture the themes of the discussion.

The comments below are not attributed to any particular individual. The Summit was intended to be an open discussion.

The themes of the discussion included:

❖ *Benefits of Measuring Outcomes*

The group spent considerable time discussing the various benefits of measuring outcomes. Many expressed their view that in order to gain maximum benefit from measuring outcomes programs and funders must use other tools also. For example, an outcome measurement system can provide evidence of the quality of the work done to achieve those outcomes, but outcomes alone cannot prove quality, either good or bad. Outcomes can provide information about whether a program, project, office, or individual is achieving what it is intended to achieve.

Measuring outcomes forces programs to think about and articulate goals, objectives, and the tools they will use to achieve them. An outcome measurement system also can provide managers with the incentive and information needed to improve their programs. In using an outcome measurement system programs must match the results they achieve with their priorities and the needs of their clients. This type of planning pushes programs to think more strategically about what they are doing.

An outcome measurement system can provide information to programs to help them determine whether they have correctly triaged cases and matched clients with the appropriate delivery mechanism. Knowledge about best practices (and strategies that fail) also can grow out of an outcome measurement system. That information can be used to maximize efficiency and effectiveness in the use of limited resources.

The data gathered in measuring outcomes can be useful for research about legal services and their clients. The information gathered also can be used to help raise money and educate Congress and other funders.

Outcome data also may be used inappropriately, such as if the data is used to unfairly compare programs. There may be a variety of reasons for differences in the level of positive outcomes achieved by programs. Varied levels may not be the result of poor quality but the difference may be the result of something outside the program's ability to influence, such as state laws and regulations or local court practices. Or, it may indicate the program should allocate resources differently or that the program is not acting effectively. To determine the real reason for variances one would need to examine the situation further. A poor report on outcomes may indicate that a peer review would be helpful. However, some people were skeptical of the use of comparisons, while others expressed a belief that the development of a culture of comparison would be a good thing because it would raise the level of expectation and that the legal services community would benefit from an increased focus on internal management and work performance.

Finally, some participants expressed concern that enemies of legal services might manipulate outcome data by taking it out of context to use against legal services. One suggestion to help ameliorate that possibility was to ensure that outcome data be accompanied by an explanation about the variables involved and any reason for deviations.

❖ *Potential Roles for LSC, Programs, State Justice Communities, and Other Funders*

Many people attending the summit agreed that there is an important role for LSC, LSC-funded programs, state justice communities, and other funders in developing an outcome measurement system for programs to use. The role for all of these entities should be driven by the desire to have quality, productive programs that effectively use their grant funds. The group discussed a number of roles for these various groups.

Generally, the discussion focused on the importance of finding a balance between the need for national leadership, resources, training, vision and data with the need for local programs and state justice communities to have ownership of and involvement in the process. While allowing or requiring local programs to develop their own outcome measurement system would help ensure that the system reflected local priorities and needs, it also may result in more than 100 different systems which are not as comprehensive or easy to use. On the other hand, a system that is developed nationally may result in data that is so broad and all-inclusive that it is not useful to funders or programs. Finally, because many funders are moving toward requiring outcome reporting, LSC should work with other funders to help ensure the least possible burden on programs and to develop a quality system. These other funders include, but are not limited to, Department of Justice, Administration on Aging, Department of Housing and Urban Development, state funders, and IOLTA.

Some potential roles for LSC include that of facilitator, visionary and coordinator of the discussion of outcomes. Several people expressed a desire to have LSC play a role in research and development as well as training. LSC could provide leadership, technical assistance, and support. LSC also could develop national models and set minimum standards for outcome measurement systems. LSC could create expectations of its grantees and timeframes for implementation of an outcome measurement system. LSC could clearly articulate that it expects good programs to have quality outcome measurement systems that they use to improve services to clients. Some participants suggested that before LSC require additional reports from programs LSC first determine what it wants to know about programs that it does not already know. The most appropriate role for LSC should be determined by LSC's goals in engaging in this process.

There is an important role for state justice communities and for programs in this process also, in both the development and implementation of an outcome measurement system. One limitation for both programs and states in engaging in this process is the lack of resources. While some states have strong and relatively well-funded IOTLA programs, others do not. They may not have the funds available to develop a system that could be used by all programs in a state. However, as state justice communities set goals and establish priorities, developing and using an outcome measurement system may be an appropriate next step. There also was some discussion about whether the state justice

community or LSC-funded programs would be the appropriate non-national entity to engage in this process. Finally, several participants believed that LSC has both the opportunity and the responsibility to create a national system to measure outcomes.

❖ *National v. State / Local System*

There was considerable discussion regarding whether an outcome measurement system would be better if developed on a national, local, or state level. Some people expressed concern that a national system would not reflect local priorities or needs or would not take into consideration local politics, laws, and legal climate. Some were concerned that a national outcome measurement system might discourage programs from engaging in work that is important locally but is not included in the national system. Some thought that a local system would be more likely used by programs in their planning. Others thought that encouraging or requiring local programs or state justice communities to develop their own outcome measurement systems would put too much burden on under-resourced organizations and would not create information that could be easily shared to reap the full benefits of measuring outcomes.

The group also discussed the possibility of developing a system that was nationally developed and supported but allowed for state and/or local variations. Reasons for supporting a hybrid local/national system included the view that this would: provide some common language for national discussion; provide LSC with additional information; encourage local planning and use of the data; result in data that is useful nationally and to programs and states; support rather than displace the current efforts of programs and states that have or are developing an outcome measurement system; and allow programs and states to incorporate outcomes they are required to measure for various funders.

The types of hybrid systems discussed can be placed into two categories. Some expressed support for an outcome measurement system that each state justice community would develop within parameters set by LSC. This would allow for programs, state justice communities, LSC and other funders to pool their ideas, knowledge, experience and resources to develop a basic outline for outcome measurement. Individual programs or state justice communities could then fill in the details, adding and deleting outcomes and outcome indicators as appropriate, to reflect the work they are doing. In that way outcomes could be harnessed to state planning and LSC could provide assistance to state planners, indicating areas of inquiry for state justice communities and programs. The group expressed different views about how much should be developed nationally and how much locally.

Another approach to the hybrid system would be to study the variety of work in which programs engage and determine which areas of work are most appropriate to examine from a national level. LSC, with its partners, would develop an outcome measurement system for those discreet areas where it is most appropriate to compare national data. This outcome measurement system could be used by all programs and its

usefulness for the programs, the state justice communities and LSC could be tested. Depending on the results of the tests, more areas could be included in the national outcome measurement system if appropriate. Programs and state justice communities could be encouraged to develop systems using this national model to measure the outcomes of work that is more appropriate to gather and compare on a local, state or regional level. There was no consensus about what type of work was best suited for local, state, regional and national data gathering and comparison.

❖ *Timeframe*

The group discussed possible timeframes for the development of an outcome measurement system. There was consensus that a reasonable and optimal timeframe would depend on the system to be developed. The group discussed the benefits of taking considerable time to develop the best product that is usable and useful, recognizing that these are complex issues that will take time to thoroughly address, particularly when training programs and state justice communities. The group also discussed the benefit of moving forward immediately with an aggressive agenda. The range of time frames varied from 6 months to 5 years. Several people advocated for taking some steps quickly while pursuing the longer term agenda more slowly.

One participant pointed out that LSC currently requires programs to describe in their grant proposals their goals, the outcomes they hope to achieve, and the indicators they will use to determine whether they have achieved the intended outcomes. LSC could follow up on this requirement and begin quite quickly to require programs to more effectively develop and use an outcome measurement system.

The group expressed varied views about how quickly to start collecting data. Some advocated for collecting data and then deciding what to do with that data. Others believe that LSC should first decide how they would use the data before collecting it. Some expressed a view that LSC could rather quickly develop an outcome measurement system linked to the current Case Service Reports, similar to the system that some IOLTA programs have developed, but that such a system would not realize the full benefits of outcome measurements discussed above.

Several people expressed the view that whatever is developed should not be considered permanent, but should be tested so that programs can introduce changes and modifications. Any system should be fluid enough to reflect changes in client needs and program goals in the future.

❖ *Potential Steps*

The group discussed the next steps that LSC might take in order to ensure that programs are measuring the outcome of their work and to fully realize the various benefits of developing and using an outcome measurement system. Many of the next

steps discussed could be done in conjunction with others. The group also indicated that LSC might want to engage in other activities in addition to outcome measurement to achieve its goals. Establishment of the process LSC will use to move forward in its effort to measure outcomes is very important.

One option would be to develop some outcome measurements in a few discreet areas and ask programs to report outcomes for them, if they engage in work with those outcomes in mind. These could be tested in the field to learn about their usefulness and further steps could be determined after those tests. Another option would be to move down the path of developing a hybrid system as discussed above. Again, testing would be required before such a system could be fully implemented. Some portions could be developed quickly while others could be developed using more time, depending on the complexity and the current level of knowledge and experience in the field.

Several people expressed the view that one necessary next step is to educate the field and state justice community partners about the value of measuring outcomes. One goal of this education would be to transform the organizational culture to focus on and understand the results of the work programs do. Another is to develop a strong professional culture of excellence in legal services through a culture of reflection on past successes and failures and movement to continuously improve.

C. Participants' Messages to the LSC Board

At the end of the summit, Justice Broderick invited participants to address their final comments about how LSC should proceed in its consideration of outcome measurement directly to LSC Board Chair Frank Strickland. The comments included the following:

- LSC should not push immediately for a national outcome measurement system. LSC should create a framework or other impetus to get local programs and state justice communities to develop outcome measurement systems. These should be aggressively analyzed in the next one to two years and then a determination made about a national system. LSC should partner with other national organizations in pursuing this outcomes agenda.
- LSC should engage in more research and thinking around how LSC can help states work to develop outcomes and develop resources needed. LSC should then move rather quickly to the next stage of development, working with states and other funders.
- LSC should develop a research program to analyze outcome measures and to work with states and programs that want to be part of this movement. LSC should work with other funders and determine which outcomes are useful to examine on a national level and which are better suited for

examination on the local, state or regional level. LSC should provide programs with demonstrations regarding how they can use outcome data to improve services. These exercises may reveal that programs are not that unique.

- LSC should move aggressively to set up a national system to measure outcomes. LSC should develop an instrument that can be a tool to improve a program's ability to get clients in the door and provide legal services that help them achieve their goals.
- It is important for LSC to determine what general information it needs to assure itself and others that service is of high quality and is effective. The control of information is important. LSC should take the time to get the field on board. The goal should be to develop something that is helpful and not overly burdensome. In the end, much of the development will need to be done locally.
- Along with diversity, outcomes should be a priority for LSC. State justice communities should develop outcome measurement systems that are tethered to national areas of inquiry.
- LSC should be clear about its objectives. There are many competing objectives, although they are not necessarily conflicting. The primary goal should be to provide programs with tools to help them improve. LSC should prioritize its goals in light of political realities and resource limitations. LSC should build on what is already being done.
- LSC should work to ensure that program managers and staff buy into this idea. LSC could develop a grant program for developing outcome measurement systems similar to the Technology Initiative Grants. This would allow LSC to play a leadership role but also would allow programs to experiment. Such a grant program would need considerable funding for administration of the program. LSC should be cognizant of the potential burden on programs of requiring a new data collection and reporting system.
- LSC should announce it is undertaking an initiative to expand and develop an outcome measurement system with its partners. LSC should develop a national task force with consultants, program staff, and national partners. LSC should look for some lead states to take the leadership in implementation and should develop a grid that states use and expand upon. States and programs should be encouraged to experiment. LSC also should develop its research and development capacity.
- Programs should have clear goals and know whether they are achieving them. Those goals vary based on what type of work is done. For

example, transactional work has very different goals from litigation. There are no court wins or losses in transactions. This should be recognized in any system developed. It is important that LSC know that it is getting value for its grant dollars. Outcomes are only one measure of quality. A national system is the only way we can have common language so we can learn from each other. Without goals and measurement of whether we are achieving them, this is only an academic pursuit. There is danger that the data will be twisted and used against legal services, but we will always have enemies.

- Outcome measurement systems can be used to improve quality, raise staff morale, and increase access to services.
- LSC should mandate that programs collect but do not report outcomes within parameters set by LSC. LSC should convene a group of national funders and program staff to agree about the broad goals that the group wants to see measured. LSC should then ask programs and state justice communities to develop the means by which they will measure whether they are achieving those goals. Programs can then report whether they have achieved them. Programs must have ownership over their systems. Once programs see the value in this, they will use the information to improve. Best practices will develop from gathering this data and quality will improve.
- LSC should contract with researchers to analyze the CSR data currently collected. LSC also should develop a research and development program. LSC should work with other national and state funders. LSC should distribute the information about what programs in other countries are doing to study and improve their systems. LSC should provide targeted, competitive grants to develop outcome measurement systems.
- LSC should be cognizant of what those states recently engaged in reconfiguration have experienced. LSC should get program and state justice community buy-in. There will be fear among some that they will be de-funded as a result of this. LSC should be open and consistent about its goals.
- LSC should examine the existing CSR data and determine whether there is data that is not useful and therefore should no longer be required. LSC should support five pilots and involve experienced programs as well as inexperienced programs to develop tools for programs and state justice communities to use. LSC should carefully communicate its message and goals through regional and other meetings. Buy in by programs is necessary to avoid getting junk data. The message should be that it is okay for programs to report low levels of positive outcomes as long as

they use that data to improve. The pilots should be evaluated and the systems modified before implemented elsewhere.

- LSC should clearly articulate why it is undertaking this project, how it will use this information, and how the information will help clients. LSC should create a pilot program, learn from its development, and obtain buy-in of programs along the way.
- LSC should hire a new CEO and ask that person to figure out what LSC should do in this regard. LSC should approve a budget to pursue whatever plan it accepts. The LSC board should think about this as a lawyer: would this type of system work in your firm.

D. Conclusion

The summit concluded with closing remarks from Justice Broderick and LSC Board Chair Frank Strickland.

APPENDIX I

Legal Services Corporation Summit on Performance Measures: Assessing Quality and Measuring Results

June 21, 2003

Harvard Law School
Morgan Courtroom, Austin Hall
Cambridge, MA

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APPENDIX II

Legal Services Corporation Summit on Performance Measures: Assessing Quality and Measuring Results

June 21, 2003

Harvard Law School
Morgan Courtroom, Austin Hall
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Agenda

7:30 – 8:00 am	Continental Breakfast	
8:00 – 8:15 am	Welcome from LSC	Frank Strickland LSC Board Chair
	Welcome from Harvard University Law School Bellow-Sacks Access to Civil Legal Services Project	Jeanne Charn Clinical Director
8:15 – 8:30	Introductions	Hon. John Broderick (Summit Facilitator)
8:30 – 9:15	A Preliminary Report on LSC's Outcomes Project	Colleen Cotter Consultant
9:15 – 10:45	An International Perspective on Performance Measurement and Quality Assessment	Lee Bridges, Professor University of Warwick Richard Moorhead Cardiff Law School Avrom Sherr, Professor University of London Alan Paterson (Moderator) University of Strathclyde
10:45 – 11:00	Break	

11:00 – 11:20	Presentation of “Quality Assurance at the Provider Level: Integrating Law Office Approaches with Funder Needs”	Jeanne Charn
11:20 – 11:40	Presentation of “Accountability to LSC: Outcomes Measures, Evaluations and Unintended Consequences”	Alan Houseman Executive Director Center for Law and Social Policy
11:40 – 12:00	Presentation of “Outcome Reporting in Legal Services: Caution Signs on the Road Ahead”	Melville D. Miller Executive Director Legal Services of New Jersey
12:00 – 12:20	Presentation of “Why We Measure Outcomes”	Mary Asbury Executive Director Cincinnati Legal Aid
12:20 – 12:50	Lunch Break	
<i>(During this break participants will get their lunch and bring it back to the room for a working lunch)</i>		
12:50 – 3:45	Facilitated Discussion	Hon. John Broderick
3:45 – 4:00	Wrap-up	